

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 7252 ) DISMISSAL AND  
6 Fire MacArthur Campaign ) CASE CLOSURE UNDER THE  
7 Debra Cundiff Lonsdale ) ENFORCEMENT PRIORITY  
8 ) SYSTEM  
9 )  
10

11 **GENERAL COUNSEL'S REPORT**

12 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
13 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
14 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking  
15 into account both the type of activity and the amount in violation; (2) the apparent impact the  
16 alleged violation may have had on the electoral process; (3) the complexity of the legal issues  
17 raised in the matter; and (4) recent trends in potential violation of the Federal Election Campaign  
18 Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's  
19 policy that pursuing relatively low-rated matters on the Enforcement docket warrants the  
20 exercise of its prosecutorial discretion to dismiss cases under certain circumstances and where  
21 appropriate, to find no reason to believe that a violation occurred. The Office of General  
22 Counsel has scored MUR 7252 as a low-rated matter and has determined that it should not be  
23 referred to the Alternative Dispute Resolution Office.<sup>1</sup>

24 The Complaint alleges that the Fire MacArthur Campaign ("FMC") and Debra Cundiff  
25 Lonsdale violated the Federal Election Campaign Act of 1971, as amended (the "Act") and

<sup>1</sup> The EPS rating information is as follows:  
Filed: August 22, 2017.



1 Lonsdale admits that she raised funds through a “crowdfunding” website to pay for the  
2 billboard.<sup>7</sup> She states, however, that she did not know that Commission regulations might apply  
3 to her actions because she is a private citizen and was not working as part of a formal campaign.<sup>8</sup>

4 The Act provides that “every person (other than a political committee) who makes  
5 independent expenditures in an aggregate amount or value in excess of \$250 during a calendar  
6 year” must file a report disclosing information about the expenditures.<sup>9</sup> The Act also requires  
7 that whenever any person makes a disbursement for the purpose of financing communications  
8 expressly advocating the election or defeat of a clearly identified candidate, such communication  
9 must include a disclaimer.<sup>10</sup>

10 We recommend that the Commission exercise its prosecutorial discretion and dismiss the  
11 allegations. The amount Respondents raised, and the amount likely spent on the billboard were  
12 somewhat modest, and Lonsdale represents she has no plans to post related billboards again.<sup>11</sup>

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<sup>7</sup> Resp. at 1.

<sup>8</sup> *Id.* As to the billboard’s disclaimer, Lonsdale states that she sent the graphic for the billboard to the vendor, who told her that “an address and paid-for information” should be included, and she agreed. *Id.* After receiving the Complaint, Lonsdale realized that the vendor had not included an address on the billboard. *Id.* Lonsdale states that the billboard was taken down and that she has no plans to post it or related billboards again. *Id.*

<sup>9</sup> 52 U.S.C. § 30104(c)(1); *see* 11 C.F.R. § 109.10(b). The term “independent expenditure” means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized committee, or their agents. 52 U.S.C. § 30101(17). The Commission’s regulations define “Expressly Advocating” at 11 C.F.R. § 100.22.

<sup>10</sup> 52 U.S.C. § 30120; 11 C.F.R. § 110.11. The communication must disclose, *inter alia*, the fact that it was not authorized by any candidate or authorized committee of a candidate. 52 U.S.C. § 30120(a)(1)-(3); 11 C.F.R. § 110.11(b)(1)-(3). For printed communications, the disclaimer must be clearly readable, be contained in a printed box, and displayed with a reasonable degree of color contrast. 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c)(2).

<sup>11</sup> *See* MUR 6404 (Stutzman) (dismissal where amount in violation was likely less than \$2,000 and billboard was likely displayed for less than one month); Gen. Counsel’s Rpt. at 3-4, MUR 6205 (Fort Bend Democrats) (EPS dismissal where the federal portion of the expenses for door hangers was “modest” and may have exceeded the \$1,000 political committee threshold for expenditures by approximately \$500); *see also* MUR 6642 (Unknown Respondents) (taking no further action after investigation indicated that local politician spent \$3,000 on one billboard reading “FIRE KLOBUCHAR!” and failed to report independent expenditure).

1 Further, the disclaimer on the billboard provided at least some information identifying the party  
2 responsible for the billboard and includes the entity's web address. In similar circumstances, the  
3 Commission has dismissed the disclaimer violation, and we recommend it do so here.<sup>12</sup>

4 In summary, we recommend that the Commission exercise its prosecutorial discretion  
5 and dismiss this matter pursuant to *Heckler v. Chaney*, approve the appropriate letters, and close  
6 the file as to all Respondents.<sup>13</sup>

7 **RECOMMENDATIONS**

- 8 1. Dismiss the allegations that Fire MacArthur Campaign and Debra Cundiff Lonsdale  
9 violated the Federal Election Campaign Act of 1971, as amended, and Commission  
10 regulations pursuant to the Commission's prosecutorial discretion under *Heckler*  
11 *v. Chaney*, 470 U.S. 821 (1985);
- 12 2. Approve the attached Factual and Legal Analysis;
- 13
- 14 3. Approve the appropriate letters; and
- 15
- 16 4. Close the file as to all Respondents.
- 17

18 Lisa J. Stevenson  
19 Acting General Counsel

22 Kathleen M. Guith  
23 Associate General Counsel

26  
27 2.27.18

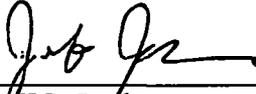
28 Date

25  
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27   
28 Stephen Gura  
29 Deputy Associate General Counsel  
30

<sup>12</sup> See, e.g., MUR 6428 (Bill Marcy for Congress) (EPS dismissal where two billboard disclaimers lacked a printed box); MUR 6397 (Chris Gibson for Congress) (EPS dismissal where incomplete billboard disclaimer included reference to website and committee appeared to take remedial action); MUR 6378 (Conservatives for Congress) (EPS dismissal where respondent added disclaimers to three billboards after being notified of Complaint).

<sup>13</sup> 470 U.S. 821 (1985).

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Jeff S. Jordan  
Assistant General Counsel

*Anne B. Robinson*  
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Anne B. Robinson  
Attorney

Attachment:  
Factual and Legal Analysis

CONFIDENTIAL

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 RESPONDENTS: Fire MacArthur Campaign MUR 7252  
6 Debra Cundiff Lonsdale  
7

8 This matter was generated by a complaint filed with the Federal Election Commission.

9 The Complaint alleges that the Fire MacArthur Campaign (“FMC”) and Debra Cundiff Lonsdale  
10 violated the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission  
11 regulations by failing to file public disclosure reports, failing to include proper disclaimers on a  
12 billboard, and failing to register and report FMC as a political committee.<sup>1</sup> For the reasons  
13 discussed below, the Commission exercises its prosecutorial discretion and dismisses this matter  
14 pursuant to *Heckler v. Chaney*.<sup>2</sup>

15 On May 4, 2017, Lonsdale created a GoFundMe webpage entitled “Let’s Fire Tom  
16 MacArthur’s [sic] Billboard”<sup>3</sup> through which Lonsdale raised \$5,236 from 159 contributions.<sup>4</sup>  
17 Lonsdale appears to have used at least some of these funds to post a billboard in MacArthur’s  
18 Congressional district.<sup>5</sup> The Complaint attached<sup>6</sup> a picture of the billboard, which appears  
19 below:

1 <sup>1</sup> Compl. at 1 (May 30, 2017).

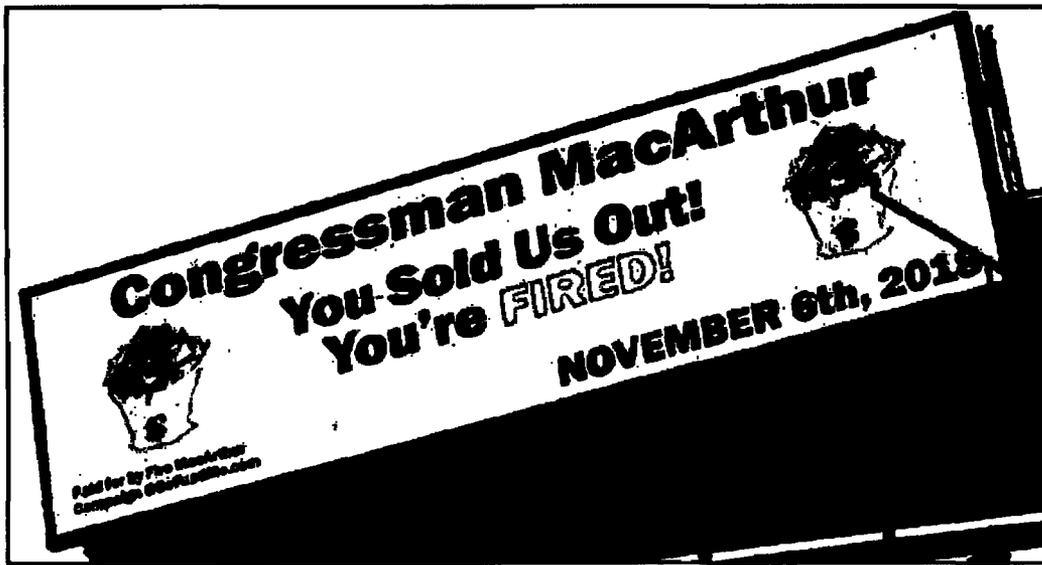
2 <sup>2</sup> 470 U.S. 821 (1985).

3 <sup>3</sup> See Let’s Fire Tom MacArthur’s Billboard, Story, GoFundMe, <https://www.gofundme.com/3qnxu2g> (last visited Nov. 8, 2017) (“FMC GoFundMe Webpage”).

4 <sup>4</sup> See FMC GoFundMe Webpage. Almost all contributions ranged from \$5 to \$200.

5 <sup>5</sup> See Resp. at 1 (Aug. 22, 2017); FMC GoFundMe Webpage. It appears that all of the contributions were received in May or June 2017. See FMC GoFundMe Webpage.

6 <sup>6</sup> See Compl., Ex. A.



1

2 Lonsdale admits that she raised funds through a “crowdfunding” website to pay for the  
3 billboard.<sup>7</sup> She states, however, that she did not know that Commission regulations might apply  
4 to her actions because she is a private citizen and was not working as part of a formal campaign.<sup>8</sup>

5 The Act provides that “every person (other than a political committee) who makes  
6 independent expenditures in an aggregate amount or value in excess of \$250 during a calendar  
7 year” must file a report disclosing information about the expenditures.<sup>9</sup> The Act also requires  
8 that whenever any person makes a disbursement for the purpose of financing communications

<sup>7</sup> Resp. at 1.

<sup>8</sup> *Id.* As to the billboard’s disclaimer, Lonsdale states that she sent the graphic for the billboard to the vendor, who told her that “an address and paid-for information” should be included, and she agreed. *Id.* After receiving the Complaint, Lonsdale realized that the vendor had not included an address on the billboard. *Id.* Lonsdale states that the billboard was taken down and that she has no plans to post it or related billboards again. *Id.*

<sup>9</sup> 52 U.S.C. § 30104(c)(1); see 11 C.F.R. § 109.10(b). The term “independent expenditure” means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized committee, or their agents. 52 U.S.C. § 30101(17). The Commission’s regulations define “Expressly Advocating” at 11 C.F.R. § 100.22.

1 expressly advocating the election or defeat of a clearly identified candidate, such communication  
2 must include a disclaimer.<sup>10</sup>

3 The Commission exercises its prosecutorial discretion and dismisses the allegations. The  
4 amount Respondents raised, and the amount likely spent on the billboard were somewhat  
5 modest, and Lonsdale represents she has no plans to post related billboards again.<sup>11</sup> Further, the  
6 disclaimer on the billboard provided at least some information identifying the party responsible  
7 for the billboard and includes the entity's web address. In similar circumstances, the  
8 Commission has dismissed the disclaimer violation, and it does so here.<sup>12</sup>

9 In summary, the Commission exercises its prosecutorial discretion and dismisses this  
10 matter pursuant to *Heckler v. Chaney*.<sup>13</sup>

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<sup>10</sup> 52 U.S.C. § 30120; 11 C.F.R. § 110.11. The communication must disclose, *inter alia*, the fact that it was not authorized by any candidate or authorized committee of a candidate. 52 U.S.C. § 30120(a)(1)-(3); 11 C.F.R. § 110.11(b)(1)-(3). For printed communications, the disclaimer must be clearly readable, be contained in a printed box, and displayed with a reasonable degree of color contrast. 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c)(2).

<sup>11</sup> See MUR 6404 (Stutzman) (dismissal where amount in violation was likely less than \$2,000 and billboard was likely displayed for less than one month); Gen. Counsel's Rpt. at 3-4, MUR 6205 (Fort Bend Democrats) (EPS dismissal where the federal portion of the expenses for door hangers was "modest" and may have exceeded the \$1,000 political committee threshold for expenditures by approximately \$500); see also MUR 6642 (Unknown Respondents) (taking no further action after investigation indicated that local politician spent \$3,000 on one billboard reading "FIRE KLOBUCHAR!" and failed to report independent expenditure).

<sup>12</sup> See, e.g., MUR 6428 (Bill Marcy for Congress) (EPS dismissal where two billboard disclaimers lacked a printed box); MUR 6397 (Chris Gibson for Congress) (EPS dismissal where incomplete billboard disclaimer included reference to website and committee appeared to take remedial action); MUR 6378 (Conservatives for Congress) (EPS dismissal where respondent added disclaimers to three billboards after being notified of Complaint).

<sup>13</sup> 470 U.S. 821 (1985).